

1 LESTER L. LEVY (Admitted *Pro Hac Vice*)
2 MICHELE F. RAPHAEL (Admitted *Pro Hac Vice*)
3 WOLF POPPER LLP
4 845 Third Avenue
5 New York, NY 10022
Telephone: (212) 759-4600
Facsimile: (212) 486-2093
E-Mail: llevy@wolffpopper.com
E-Mail: mraphael@wolffpopper.com

6 WILLIAM M. AUDET (117456)
7 AUDET & PARTNERS, LLP
8 221 Main Street, Suite 1460
9 San Francisco, CA 94105-1938
Telephone: (415) 568-2555
Facsimile: (415) 568-2556
E-Mail: waudet@audetlaw.com

10 MARC M. SELTZER (54534)
11 SUSMAN GODFREY L.L.P.
12 1901 Avenue of the Stars, Suite 950
13 Los Angeles, CA 90067-6029
Telephone: (310) 789-3100
Facsimile: (310) 789-3150
E-Mail: mseltzer@susmangodfrey.com

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CLRB HANSON INDUSTRIES, LLC d/b/a
INDUSTRIAL PRINTING, and HOWARD
STERN, on behalf of themselves and all others
similarly situated,

Case No. C 05-03649 JW

Plaintiffs,

vs.

GOOGLE, INC.

Defendant.

**DECLARATION OF MARC M.
SELTZER IN SUPPORT OF
PLAINTIFFS' SUPPLEMENTAL
SUBMISSION RE THE COURT'S
ORDER OF AUGUST 21, 2007**

Date: February 25, 2008
Time: 9:00 a.m.
Place: Courtroom 8
Hon. James W. Ware

813404v1/010480

1

**DECLARATION OF MARC M. SELTZER IN SUPPORT OF
PLAINTIFFS' SUPPLEMENTAL SUBMISSION
CASE NO. C 05-03649 JW**

1 I, MARC M. SELTZER, declare as follows:

2 1. I am an active member of the State Bar of California, a member in good standing
3 of the Bar of that Court, a partner in the law firm of Susman Godfrey L.L.P., and one of the
4 attorneys of record for plaintiffs CLRB Hanson Industries, LLC d/b/a Industrial Printing and
5 Howard Stern in this action against Google, Inc. (“Google”). I make this declaration on
6 personal knowledge and, if called as a witness, could and would testify competently thereto.

7 2. Attached hereto as Exhibit A is a true and correct copy of the Terms and
8 Frequently Asked Questions which Google represented was in effect at the time Howard Stern
9 enrolled in Google’s AdWords Program (“Stern Terms” and “Stern FAQs”).

10 3. Attached hereto as Exhibit B is a true and correct copy of the Terms and
11 Frequently Asked Questions which Google represented was in effect at the time that CLRB
12 Hanson enrolled in Google’s AdWords program (“Hanson Terms” and “Hanson FAQs”).

13 4. Attached hereto as Exhibit C is a true and correct copy of the Terms and
14 Frequently Asked Questions which were retrieved from Google’s website at the time the initial
15 complaint in this action was filed (August 3, 2005), and which were attached as Ex. A to
16 Plaintiffs’ Second Amended Class Action Complaint, dated May 4, 2006 (the “Aug. 2005
17 FAQs”).

18 5. Attached hereto as Exhibit D is a true and correct copy of the Frequently Asked
19 Questions which Google represented was in effect as of August 16, 2006, and which was
20 marked as Ex. 21 by Defendant at the deposition of Plaintiff Howard Stern (“Aug. 2006
21 FAQs”).

22 6. Attached hereto as Exhibit E is a true and correct copy of the page cited from
23 Exhibit 3 marked at the deposition of Michael Schulman, taken in this action on March 7, 2007,
24 GOOG-HN021817.

25 7. Attached hereto as Exhibit F are true and correct copies of pages 67 and 68 cited
26 from the transcript of the deposition of Heather Wilburn, taken in this action on March 6, 2007.

8. Attached hereto as Exhibit G is a true and correct copy of e-mail correspondence from plaintiff Howard Stern to Google, GOOG-HN00349-50.

9. Attached hereto as Exhibit H is a true and correct copy of page 29 cited from the transcript of the deposition of CLRB Hanson, by Brett Hanson, taken in this action on August 18, 2006.

10. Attached hereto as Exhibit I is a true and correct copy of page 174 cited from the transcript of the deposition of Howard Stern, taken in this action on August 16, 2006.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 29th day of January, 2008, at Los Angeles, California.

/s/ Marc M. Seltzer
MARC M. SELTZER